

# **Town of Union**

## **PLAN COMMISSION MEETING**

### **Minutes of November 17, 2009**

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The Town of Union Plan Commission meeting was called to order at 7:00 p.m. on Tuesday, November 17, 2009 at the Eager Free Public Library, 39 W. Main St., Evansville, WI by Chairman Alvin Francis. Members in attendance included Francis, Doug Zweizig, Renee Exum, Eric Larsen, Dave Pestor, Kim Gruebling, and Doug Lee. Town Supervisor Don Krajeck, Clerk Regina Ylvisaker, and Building Inspector Bob Fahey were also present.

#### **Approve October 15 and October 29, 2009 Plan Commission Minutes**

Eric Larsen asked for clarification on the short/long term residential wording that Doug Zweizig presented at the October 29 meeting: does this mean that the Plan Commission will not consider any requests unless they are in the short term residential or smart growth areas? Other requests will not be discussed? This is correct, per Doug Zweizig. Zweizig noted that Bob Fahey should be clear on this, as he is the first point of contact for applicants. Additionally, the scoring sheets need to be changed to reflect this change.

Motion to approve the minutes of the October 15, 2009 Joint Board/Plan Commission Working Meeting and October 29, 2009 Plan Commission meeting made by Kim Gruebling. Second by Doug Zweizig. Motion carried by unanimous voice vote.

#### **Public Comment (10 minutes max/issue)**

Regina Ylvisaker explained to the Plan Commission Attorney Matt Dregne's emailed opinion on responses to questions during the public comment portion of the meeting.

"The plan commission should not engage in a significant dialogue with an applicant under the "public comment" portion of the agenda. Public comment should be limited to brief statements, and should not include substantive responses from the plan commission."

Buck Sweeney, representing Tom Davis, is in attendance looking for general information. Davis has 53 acres, including a hunt club that is no longer being operated as a club and upon which he has spent a substantial amount of money. Davis is wondering what he can do with the parcel, to possibly split it and sell off the hunt club with some land, or sell off farm land. It is an ag parcel with a residence, and they are wondering if they could get a variance to sell off the residence as a smaller parcel. Also wondering if they could get the second parcel with the hunt club zoned so it would be buildable. Francis' opinion is that it could not be rezoned and have a residential lot divided off, but could have an A2 or A3 land division (A3 parcels 3-10 acres, A2 parcels 10-35 acres). Sweeny inquired whether, if each parcel was 10 acres, a residence could be put on the parcels. Kim Gruebling questioned whether the parcel is in the Town's farmland preservation area. If so, dividing it up into smaller parcels doesn't fit the preservation concept. Sweeny stated that Davis is working with the DNR to resolve some issues. Would it be possible to split the parcel into two 10 acre parcels and sell the balance off as farmland? Gruebling stated that dividing the current parcel into three parcels would not be approved by the Plan Commission. Sweeny questioned whether a two parcel split would work; Doug Zweizig stated the major goals of the Town's Comprehensive Plan are maximizing farmland preservation, and a proposed land

division should be made with this in mind. Eric Larsen explained that the issue with parcels is that they become buildable. At that point, the Plan Commission has been requesting that the owners agree to deed restrictions, which limits the buildable lots and is more along the lines of ag land preservation. Sweeney states that they would have no problems with deed restrictions. Francis felt that if they kept the parcel which included the hunt club at 35 acres, they would have a better argument. A zoning change on the parcel which includes the house would be required no matter what.

Sweeney clarified that it is his understanding that a split with one 35 acre parcel including the hunt club and a deed restriction, and a second parcel with the existing house is the most likely to work with the Town. Gruebling stated that he is unsure that the 35 acres and 18 remaining acres will be acceptable, as the Plan Commission usually approves 3-5 acres for houses split off. Zweizig reiterated that their proposal needs to maximize farmland preservation.

**Review and possible recommendation to Town Board changes to ordinances including draft developers agreement, citation ordinance and related fee schedules.**

Municipal Judge Tom Alisankus was in attendance to discuss citation ordinances and fee schedules. Alisankus noted that his email account is no longer accessible; he can provide his new address to anyone upon request.

Alisankus stated that the sample ordinances the Plan Commission has been looking at are all good ordinances, and he would recommend one with minor changes (he will email his recommendation with changes to Clerk Ylvisaker). Most of the language in the enabling ordinance states what the State statutes (Section 800) says the Town needs to do. The biggest job for the Town is to decide what ordinances are to be included, and establish a forfeiture range. Alisankus would take the fee schedule that the Town adopts and establish a bond amount. The bond amount listed on citation when issued is the amount that person would have to deposit if, for example, the constable decides that a person needs to be taken into custody. The bond amount on the ticket is the amount the person would have to post to stay out of jail. The bond amount is often different than the amount of the forfeiture ultimately assessed. Traffic tickets are good example: the bond amount is now \$88.80; however the range of the fine that a judge can impose is set by the State and is not less than \$30 nor more than \$300, plus costs. This can create confusion. Alisankus would set the bond amount once the forfeiture range is established, and then submit the bond amounts to the Town Board for approval.

Gruebling questioned what happens if the individual does not pay their fine. Alisankus explained that the Town has options. The Town could use tax intercept, where the court clerk would put a lien on any tax returns due to the individual. Another option is collection agencies, which the Town has the authority to use to enforce forfeiture amounts. Alisankus pointed out that in his opinion, the option of sending the individual to jail for non-payment is a nice option to have available, because if people know right from the start that jail is never an option, it's one step they know can't happen to them and they are less likely to pay. In his experience, 9 times out of 10, when jail is the option presented to the offender by the judge the forfeiture is paid. Alisankus' experience has been that about 6 people annually go to jail, and they find the funds to pay their forfeiture right away. Alisankus usually sends release orders to Rock County for individuals 5-7 days after incarceration. Towns can also file a lawsuit to collect jail costs. Jail cannot be used as a penalty itself, only to enforce non-payment of forfeiture.

Traffic tickets allow for drivers license suspension. Alisankus explained that at various times over the years, the legislature has allowed for license suspension for non-traffic violations, although they currently do not.

Alisankus noted that in his experience as special prosecutor in Beloit, he worked with ordinances in which every day a violation exists is a separate offense with a separate fine. An ordinance set up this way allows for fines to add up quickly (i.e. a \$30 per day fine turns into \$300 in 10 days) and as a result coming into compliance has more incentive. Violators can then be given the option to be taken to court to get payment of the accumulated fines, or pay the original fine and come into compliance.

It was clarified that any violations would go through the courts the same as all other things do. Gruebling noted that if people are sent to jail the Town has to reimburse the County for the jail time served. Transportation to the jail would be another issue, per Gruebling, as the Town has no police force. This would require an agreement with the County for Transportation.

Don Krajeck asked if forfeitures can be put property taxes as special assessments. Alisankus stated that cities have that right, and he is unsure but assumes that towns do as well.

Zweizig questioned what a good process for issuing citations would be. Alisankus explained that typically the authority is given to inspectors (i.e. building), and constables, but the Town can designate any individuals it wants. Having joint authority is nice, i.e. constable can write for any violations he sees, even if outside the normal scope of his enforcement. As far as the actual process, a copy of the citation goes to the municipal court, and they would send the Town the disposition and copies to the State if required. Regarding hearing dates; the Town can designate that some violations are “must appear” and the individual must come to the court date. If they don’t it acts as a plea of no contest and the court acts accordingly. This is usually done in cases where restitution is an issue. If a citation is contested and the individual wants a trial, the issuer of the citation (building inspector, constable, etc.) would need to appear at the trial. Otherwise no one from the Town needs to appear at a hearing. If the individual pleads not guilty, typically the court orders a pre-trial conference at which the defendant is ordered to discuss the case with the prosecuting attorney. The attorney listens to any extenuating circumstances, and the attorney presents their evidence to the defendant. Alisankus reported that in Evansville, 90% of the cases end at pre-trial conferences. Doug Lee asked if the citation form is a standard form that comes from the State; it is.

Right now there is no cost to the Town for the municipal judge, court clerk, etc per the current agreement. State statutes list which costs can be recovered by the Town, including court costs, penalty assessments, jail assessment, etc. Alisankus suggested that the Town may want to reconsider the terms of the original agreement, as right now none of the forfeitures from the Town of Union go to the Town – however the Town is not paying anything for the courts either. For example, an OWI case can result in a \$300 forfeiture for the Town.

Municipal courts are important in Alisankus’ view to maintain local control on local issues. Local judges care about local issues, and local judges can be easily voted out if the public is unhappy with performance; it’s hard to vote out a circuit court judge if a small municipality does not like how their issues are handled.

**Review and possible recommendation to Town Board changes to ordinances including draft developers agreement, citation ordinance and related fee schedules.**

Motion to recommend to the Town Board the approval of the draft developer's agreement as amended made by Kim Gruebling. Second by Eric Larsen. Motion carried by unanimous voice vote.

**Review and discussion of possible amendments and updates to the Town of Union Comprehensive Plan, including long/short term development designations on maps.**

The Working Lands initiative was reviewed by Zweizig and Renee Exum, who attended the recent working lands meeting. The topics are confusing; it was agreed upon that the Plan Commission would like to better understand the farmland preservation program. Information from the meeting will be emailed out to the Plan Commission by Ylvisaker/Exum, and the issue will be discussed again at the January Plan Commission meeting.

The map sent out by Larsen was reviewed. The Plan Commission requested that Town Engineer Greg Hofmeister update the Town's future land use map to reflect the changes made at the October 29 Plan Commission meeting, re: short and long term growth areas.

Motion to adjourn made by Eric Larsen. Second by Kim Gruebling. Motion carried by unanimous voice vote. Meeting adjourned at 9:12 p.m.

*Respectfully submitted by:  
Regina Ylvisaker, Clerk*

Note: minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting.